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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

FILED  
EPA REGION VIII  
TRAINING CLERK

IN THE MATTER OF: )  
 )  
Maralex Disposal, LLC., )  
 )  
Respondent. )

Docket No. SDWA-8-2011-0079

**STIPULATIONS OF FACTS, EXHIBITS AND TESTIMONY**

Pursuant to the Pretrial Order issued by Regional Judicial Officer Elyana R. Sutin on July 19, 2012, directing the parties to file any stipulations of facts not in dispute and simplification of issues by August 10, 2012, the parties hereby stipulate to the following facts, exhibits and testimony:

**FACTS**

1. Respondent, Maralex Disposal, LLC (Maralex or Respondent), is a Colorado corporation doing business in the State of Colorado. (Resp. Answer to Comp., & 8).
  
2. Respondent is a "person" as defined in the Safe Drinking Water Act (Act), and is therefore subject to the requirements of the statute and its implementing regulations (Resp. Answer to Comp., & 9).
  
3. Respondent has owned and/or operated the Ferguson #1 well at all times relevant to the complaint (Resp. Answer to Comp., & 10).
  
4. The Ferguson #1 well is located in what the Colorado Oil and Gas Conservation Commission has designated as a natural gas field known as the Ignacio Blanco Field in township

33 north, section 32, range 9 west, in La Plata County, Colorado, within the exterior boundary of the Southern Ute Indian Reservation (Resp. Answer to Comp., & 11).

4. The Ferguson #1 well is a "Class II Injection Well" as defined by 40 C.F.R. §§ 144.80 and 146.5 (Resp. Answer to Comp., & 12).

5. The Respondent is subject to applicable requirements of 40 C.F.R. §§ 124, 144 and 146 due to its ownership and/or operation of the Ferguson #1 well (Resp. Answer to Comp., & 13).

6. The Respondent is authorized to operate the Ferguson #1 well by EPA permit #CO21011-06908 and is required to comply with all conditions in the permit at all times (Resp. Answer to Comp., & 14).

7. Weekly observations of annulus pressure are required for the Ferguson #1 well by the permit at Part II(D)(1) (Resp. Answer to Comp., 15).

8. Respondent violated the permit and therefore the Act by failing to observe weekly annulus pressure measurements of the Ferguson #1 well (Resp. Answer to Comp., & 16).

9. The Respondent admits that it did not make consistent weekly observations of the annulus pressure but did observe the annulus pressure several times per month and, on some occasions, several times per week (Resp. Answer to Comp., & 16).

10. 40 C.F.R. § 146.8 sets forth the standards for mechanical integrity for injection wells (Resp. Answer to Comp., & 17).

11. The EPA observed on May 5, 2010, and May 25, 2010, that the Ferguson #1 well had annulus pressure as set forth in the EPA's Notice of Violation (NOV) dated June 7, 2010

(Resp. Answer to Comp., & 18).

12. The correspondence dated June 7, 2010 (from the EPA to Maralex) and July 6, 2010 (Maralex's response to the June 7, 2010 letter from the EPA) occurred and speaks for itself (Resp. Answer to Comp., 18).

13. Between July 7, 2010 and April 13, 2011, the EPA had not received any additional information from the Respondent regarding the Ferguson #1 well (Resp. Answer to Comp., & 19).

14. EPA conducted a site inspection on April 13, 2011. (Resp. Answer to Comp., & 19).

15. The results of EPA's annulus pressure observations are set forth in the April 19, 2011 NOV sent to Maralex and the NOV speaks for itself (Resp. Answer to Comp., & 19).

16. The Ferguson #1 well was operating between May 5, 2010 and May 24, 2011 and the annulus pressure was above zero during EPA inspections (Resp. Answer to Comp., & 20).

17. No mechanical integrity testing was performed during the period May 5, 2010 and May 24, 2011.

18. EPA observed and Maralex confirmed the existence of annulus pressure on the Ferguson #1 well in May of 2010 through May of 2011. Maralex contends that the annulus pressure on the Ferguson #1 Well during this time period was intermittent and not consistent. (Resp. Answer to Comp., & 21).

19. On February 18, 2011, EPA received from Respondent the annual monitoring

report for 2010 from Maralex which reported minimum and maximum annulus pressures of zero pounds per square in gauge for every month of 2010 (Resp. Answer to Comp., & 21).

20. The reporting of the annulus pressure in the 2010 report was incorrect (Resp. Answer to Comp., & 22).

21. The Colorado Oil and Gas Conservation Commission regulates oil and gas activities in the State of Colorado outside of Indian country, as part of its mission to foster the responsible development of Colorado's oil and gas natural resources in a manner consistent with the protection of public health, safety and welfare.

22. The parties stipulate that the structure and management of Maralex Disposal, Inc. vis-a-vis Maralex Resources, Inc., is as follows: Maralex Disposal is an LLC and has a single manager, A.M. O'Hare. There are no officers of this LLC. In addition, Maralex Disposal has no employees. If an employee of Maralex Resources performs services for Maralex Disposal, Maralex Resources invoices Maralex Disposal for that work (and materials, as appropriate), and then Maralex Disposal pays that invoice to Maralex Resources. Maralex Disposal does not pay any employees of Maralex Resources for working on Maralex Disposal.

#### **EXHIBITS**

The parties stipulate to the foundation and admission of the following documents into evidence, reserving the right to argue the relevance, meaning, effect and/or weight of such at hearing. These documents represent all but two of the exhibits previously proposed by the parties in their respective prehearing exchanges. The Complainant will need to lay the proper foundation and introduce into evidence at hearing Complainant's Exhibits 19 (Records from the Colorado Oil and Gas Incident Search database) and 20 (Colorado Oil and Gas Incident Search –

Field Inspection Report for the Dara Ferguson Injection #1 Well, API Number 05-067-09194, dated January 3, 2008).

1. Complainant's Exhibit 1. February 14, 2010 document that provides a timeline of events, site background, violation summary, penalty summary, and history of the violator.
2. Complainant's Exhibit 2. UIC Class II Permit CO21011-06908.
3. Complainant's Exhibit 3. UIC Program Judicial and Administrative Order Settlement Penalty Policy September 1993 (Memorandum dated September 27, 1993).
4. Complainant's Exhibit 4. EPA General Enforcement Policy #GM-21.
5. Complainant's Exhibit 5. EPA General Enforcement Policy #GM-22.
6. Complainant's Exhibit 6. Resume for Ms. Sarah Roberts (version filed per Motion to Remove and Replace Two Pre-hearing Exchange Exhibits, February 24, 2012).
7. Complainant's Exhibit 7. Resume for Mr. Nathan Wiser (version filed per Motion to Remove and Replace Two Pre-hearing Exchange Exhibits, February 24, 2012).
8. Complainant's Exhibit 8. May 5, 2010 Inspection Report for Well: CO21011-06908.
9. Complainant's Exhibit 9. May 26, 2010 Inspection Report for Well: CO21011-06908.
10. Complainant's Exhibit 10. June 7, 2010 Notice of Violation; Failure to Maintain Zero Annulus Pressure.
11. Complainant's Exhibit 11. July 8, 2010 Maralex Response Letter to June 7, 2010 Notice of Violation.
12. Complainant's Exhibit 12. February 18, 2011 Annual Disposal/Injection Well Monitoring Report for 2010: CO21011-06908.
13. Complainant's Exhibit 13. April 13, 2011 Inspection Report for Well: CO21011-06908.

14. Complainant's Exhibit 14. March 23, 2011 April 4, 2011-Email exchanges between Victoria Schmitt and Sarah Roberts regarding the Ferguson #1 well CO21011-06908.
15. Complainant's Exhibit 15. April 19, 2011 Notice of Violations: Inaccurate Reporting, Failure to Monitor, Loss of Mechanical Integrity.
16. Complainant's Exhibit 16. May 3, 2011 Conversation Record documenting phone call between EPA and Maralex regarding the status of the well.
17. Complainant's Exhibit 17. May 24, 2011 Well Rework Record and Mechanical Integrity Test Results.
18. Complainant's Exhibit 18. November 15, 2011 Notice of Violation: Failure to Maintain Zero Annulus Pressure.
19. Complainant's Exhibit 21. Colorado Secretary of State Corporations Section, Articles of Organization for Maralex Disposal, LLC, Date Stamped June 26, 1995.
20. Complainant's Exhibit 22. Colorado Secretary of State Corporations Office, Articles of Incorporation, Maralex Enterprises, Inc., Date Stamped December 1, 1989.
21. Complainant's Exhibit 23. Colorado Secretary of State Corporations Office, Articles of Amendment to the Articles of Incorporation, Change of Name From Maralex Enterprises, Inc., to Maralex Resources, Inc., Date Stamped January 10, 1990.
22. Respondent's Exhibit A. Documents related to the work over and results of mechanical integrity test performed on the Ferguson #1 Well conducted on December 14, 2006.
23. Respondent's Exhibit B. Documents relating to the rework and results of mechanical integrity test performed on the Ferguson #1 Well conducted on may 24, 2011 and related Completion-Workover-Daily Work Reports.

24. Respondent's Exhibit C. Completion-Workover-Daily Work Reports dated May 25-27; June 29; July 1, 5 and 6 and results of mechanical integrity test for the Ferguson #1 Well performed on July 6, 2011.
25. Respondent's Exhibit D. Documents related to the results of mechanical integrity test performed on the Ferguson #1 Well conducted on November 29, 2011.
26. Respondent's Exhibit E. Maralex Disposal, LLC Income Statements and Balance Sheets for December 31, 2008; December 31, 2009; December 31, 2010.
27. Respondent's Exhibit F. Resume of Dennis Reimers.
28. Respondent's Exhibit G. Resume of Christi Reid.
29. Respondent's Exhibit H. Resume of A.M. O'Hare.

#### TESTIMONY

The parties stipulate to hear factual testimony from the witnesses named in the parties' respective Prehearing Exchanges and Complainant's Supplemental Prehearing Exchange relating to the alleged civil violations only based on the stated scope of testimony. The parties do not stipulate to the admission of any testimony concerning criminal matters, including the interrogation conducted by the EPA Criminal Investigation Division referenced in the proposed scope of Mr. Reimer's testimony in Respondent's Prehearing Exchange. Because the parties are not stipulating that each other's witnesses (Mr. Reimers, Ms. Reid and Mr. Wisner) qualify as experts and may testify as such, any expert testimony will be admissible at hearing only upon laying the appropriate foundation and admission by the presiding officer. The parties reserve the right at hearing to object to and/or cross examine individual factual statements and/or

conclusions made by each witness, as well as argue the meaning, effect and/or weight of such testimony.

WHEREFORE, the undersigned submit that the foregoing stipulations of facts, exhibits and testimony individually and collectively portray that which they describe in an accurate and truthful manner, and are relevant and admissible as evidence at the hearing in this matter.

**FOR COMPLAINANT:**  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8

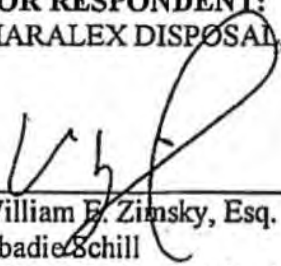


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Amy Swanson, Senior Enforcement Attorney  
Legal Enforcement Program  
EPA Region 8  
1595 Wynkoop Street (8ENF-L)  
Denver, Colorado 80202-1129



**FOR RESPONDENT:  
MARALEX DISPOSAL, LLC**



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William E. Zimsky, Esq.  
Abadie Schill  
1099 Main Street Suite 315  
Durango, Colorado 81301

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August (enter), 2012, the original and one true copy of the STIPULATIONS OF FACTS, EXHIBITS AND TESTIMONY were hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was sent as follows:

Via hand-delivery to:

The Honorable Elyana R. Sutin  
Regional Judicial Officer  
U.S. EPA Region 8 (8RC)  
1595 Wynkoop Street  
Denver, CO 80202-1129

Via electronic and regular mail to:

Mr. William E. Zimsky, Esq.  
Abadie Schill  
1099 Main Street, Suite 315  
Durango, CO 81301  
wez@oilgaslaw.net

Date: 8/20/2012

By:  \_\_\_\_\_